IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH NAGPUR

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Second Appeal No.677/2006

Office Notes, Memoranda of Coram appearances, Court's orders or directions and Registrar's orders.	:	Court's or Judge's orders

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Coram : A.P.Lavande, J.
Dated : 20/3/2007

Heard Mr. Agrawal, learned counsel for the appellant.

By this appeal, the appellant takes exception to the judgment and decree 21st April 2006 passed by 1st Adhoc Additional District Judge, Achalpur in Regular Civil Appeal No.89/93 dismissing the appeal preferred by the appellant-plaintiff against common judgment and decree dated 30.9.1993 passed by the Civil Judge, Sr. Dn. Daryapur in Special Civil Suit Nos. 2/81 and 43/81. Special Civil Suit No.2/81 was filed by the plaintiff seeking reliefs of declaration, possession of immovable property and in the alternative for partition and separate possession. Counter suit No.43/91 filed by defendant no.1 against the plaintiff herein. The trial Court partly decreed the suit filed by the present

appellant and also partly decreed the suit filed by Sarubai. The trial Court has held that the plaintiff is adopted son of plaintiff Sarubai but he is not entitled to any share in the property left by Sarubai in view of Will executed by her on 14.3.1985. Mr. Agrawal, learned counsel for the appellant submitted that the findings recorded by both the Courts below are perverse and more particularly, the finding of trial Court that the plaintiff who is adopted son of Salubai is not entitled to any share in her property is totally perverse.

Having perused the records including the judgments passed by both the Courts below and having considered the submissions made by Mr. Agrawal, I do not find any merit in the present appeal. The finding of the trial Court that though the appellant is the adopted son of Salubai is not entitled to any share in the property has been arrived at upon proper appreciation of the evidence led by the parties and, in my opinion, the said finding given by the trial Court and confirmed by the lower Appellate Court cannot be said to be perverse or illegal warranting interference in second appeal. I do not find any merit in the present appeal. No substantial question of law is involved in

the matter. Hence, the appeal is summarily rejected.

JUDGE

A.